



CALIFORNIA TIRE FEE



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Regulations pertaining to the law can be found at California Code of Regulations, Title 18, Sections 4901 and 4902.

## PUBLIC RESOURCES CODE PROVISIONS

## Relating to the California Tire Fee

[Added Stats. 1990, Ch. 35, effective March 30, 1990.]

**Note:** The remaining administrative provisions related to this fee can be found under **Fee Collection Procedures Law**, Revenue and Taxation Code §§ 55001-55381.

## CHAPTER 17. CALIFORNIA TIRE RECYCLING ACT

- Article 1. Findings. §§ 42860-42861.  
2. Storage at Landfills. §§ 42865-42867.  
3. Tire Recycling. §§ 42870-42875.  
4. Administration. §§ 42880-42883.  
5. Financial Provisions. §§ 42885-42889.4.  
6. Use of Recycled Tire Products by State Agencies. §§ 42890-42895.

## Article 1. Findings

- § 42860. Citation of act.  
§ 42861. Legislative findings.

**42860. Citation of act.** This chapter shall be known and may be cited as the California Tire Recycling Act.

**42861. Legislative findings.** The Legislature finds and declares the following:

(a) The problem posed by used tire storage and disposal requires a comprehensive, statewide response, including, but not limited to, reducing landfill disposal of used whole tires, recycling of tires into secondary uses, source material development and promotion of secondary markets for used tire byproducts, tire shredding, and energy recovery.

(b) California is currently faced with an existing used tire inventory of at least 100 million tires, an amount which grows by over 20 million tires per year. Without a dedication of resources to address the state's growing tire population, the health and safety of all Californians will be increasingly at risk.

(c) There are currently no dedicated resources for the recycling of used tires, or a comprehensive tire shredding program. Therefore, the levying of a fee on the disposal of used whole tires in the state is needed to support tire recycling activities.

(d) Used tires represent a valuable state resource which should be reclaimed and recycled whenever possible. An abundance of tire recycling alternatives exist which have been demonstrated to be environmentally safe. These alternatives need to be promoted in order to achieve the maximum use of used tires.

(e) Shredding of used tires represents a preferable alternative to whole tire storage or disposal. Given the rapidly decreasing amount of landfill space

available to local jurisdictions, shredding represents a positive way of storing tires until a secondary use can be developed.

## Article 2. Storage at Landfills

- § 42865. Policy; “tire”; “shredding”.
- § 42866. Adoption of emergency regulations. [Repealed.]
- § 42867. Eligibility for financial assistance.

**42865. Policy; “tire”; “shredding”.** (a) It is the policy of the state that until a state tire recycling program is fully underway and operational, the shredding of used tires shall be encouraged.

(b) For the purposes of this act, a “tire” refers to any vehicle tire whose major component is rubber, and its component parts. “Shredding” includes both mechanical and cryogenic shredding which reduces tires to a size of less than four inches in width.

**42866. Adoption of emergency regulations.** [Repealed by Stats. 2000, Ch. 838 (SB 876), in effect January 1, 2001.]

**42867. Eligibility for financial assistance.** Except as otherwise determined by the board, only landfills authorized in this article shall be eligible for financial assistance in the shredding of tires pursuant to Article 3 (commencing with Section 42870).

## Article 3. Tire Recycling

- § 42870. Legislative intent.
- § 42871. Initiation of tire recycling program.
- § 42872. Awarding of grants; information and education programs.
- § 42872.5. Awarding of grants for public works projects.
- § 42873. Activities eligible for funding.
- § 42874. Factors in evaluating loan applications.
- § 42875. Additional factors for loan applications.

**42870. Legislative intent.** It is the intent of the Legislature:

(a) To reduce the landfill disposal and stockpiling of used whole tires by 25 percent within four years of full implementation of a statewide tire recycling program and to recycle and reclaim used tires and used tire components to the greatest extent possible in order to recover valuable natural resources.

(b) To eliminate illegal dumping and unnecessary stockpiling of used tires.

**42871. Initiation of tire recycling program.** The board shall administer a tire recycling program that promotes and develops alternatives to the landfill disposal of used whole tires.

**42872. Awarding of grants; information and education programs.** The tire recycling program may include, but is not limited to, the following:

(a) The awarding of grants, subsidies, and loans to businesses or other enterprises, and public entities, involved in activities and applications that

result in reduced landfill disposal of used whole tires and reduced illegal disposal or stockpiling of used whole tires.

(b) The awarding of grants for research aimed at developing technologies or improving current activities and applications that result in reduced landfill disposal of used whole tires.

(c) The awarding of grants or loans for the evaluation, planning, design, improvement, and implementation of alternative used tire recycling programs in this state.

(d) The awarding of grants or loans to businesses which shred used tires for purposes of recycling.

(e) Development and implementation of an information and education program, including seminars and conferences, aimed at promoting alternatives to the landfill disposal of used whole tires.

(f) The awarding of grants or loans to tire shredding programs at authorized landfills, solid waste transfer stations, or dedicated tire shredding facilities, including the direct purchase of shredders or financing of shredder contracts.

**42872.5. Awarding of grants for public works projects.** (a) In addition to the purposes listed in Section 42872, the tire recycling program may include the awarding of grants to cities, counties, districts, and other local governmental agencies for the funding of public works projects that use rubberized asphalt concrete. In addition to the factors listed in Sections 42874 and 42875, a grant for a public works project that uses rubberized asphalt concrete shall be awarded subject to all of the following:

(1) A grant shall be limited to a project that is both projected to generate between 2,500 and 20,000 tons of rubberized asphalt concrete during the life of the project and that uses 20 pounds or more of crumb rubber per ton of rubberized asphalt concrete.

(2) The amount of a grant that qualifies under paragraph (1) shall be equal to two dollars and fifty cents (\$2.50) for each ton of rubberized asphalt concrete projected to be generated by the project.

(3) The total amount of a grant that qualifies under paragraph (1) shall be six thousand two hundred fifty dollars (\$6,250) or more, but not more than fifty thousand dollars (\$50,000), as determined pursuant to paragraph (2).

(b) Grants made under this section shall be funded by an appropriation in the annual Budget Act from the California Tire Recycling Management Fund established pursuant to Section 42885. To the extent possible, depending on the number of qualified applications and whether there is a sufficient supply of crumb rubber, funds allocated pursuant to this section shall be equal to 16 percent of the funds budgeted pursuant to this chapter for market development and new technology activities for used tires and waste tires.

(c) In order to provide outreach to local agencies regarding the use of rubberized asphalt concrete in public works projects, all of the following shall occur:

(1) The board, in cooperation with its Rubberized Asphalt Concrete Technology Centers, shall create, annually update, and post on each center's Internet Web site a data base of public works projects that include rubberized asphalt concrete that were completed by local agencies.

(2) The Department of Transportation shall post on its public Internet Web site data and descriptions regarding state public works projects using rubberized asphalt concrete.

(3) The board shall post on its public Internet Web site a link to connect to the data base created under paragraph (1) and the data and descriptions provided under paragraph (2).

(d) This section shall become inoperative on June 30, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

42873. **Activities eligible for funding.** (a) Activities eligible for funding under this article, that reduce, or that are designed to reduce or promote the reduction of, landfill disposal of used whole tires, may include the following:

(1) Polymer treatment.

(2) Rubber reclaiming and crumb rubber production.

(3) Retreading.

(4) Shredding.

(5) The manufacture of products made from used tires, including, but not limited to, all of the following:

(A) Artificial reefs.

(B) Rubber asphalt.

(C) Playground equipment.

(D) Crash barriers.

(E) Erosion control materials.

(F) Nonslip floor and track surfacing.

(G) Oil spill recovery equipment.

(H) Roofing adhesives.

(6) Other environmentally safe applications or treatments determined to be appropriate by the board.

(b) (1) The board may not expend funds for an activity that provides support or research for the incineration of tires. For the purposes of this article, incineration of tires, includes, but is not limited to, fuel feed system development, fuel sizing analysis, and capacity and production optimization.

(2) Paragraph (1) does not affect the permitting or regulation of facilities that engage in the incineration of tires.



**42874. Factors in evaluating loan applications.** The board shall evaluate applications for loans or grants under this article based upon, but not limited to, the following factors in the proposal:

- (a) The quantity of used tires that will be diverted from landfills.
- (b) The estimated cost per tire in the recycling, processing, or conversion process.
- (c) The availability of markets for the recycled tire product.
- (d) The degree to which the processing program mitigates or avoids adverse environmental effects.

**42875. Additional factors for loan applications.** The board may also consider the following factors in awarding grant or loan applications:

- (a) The ability of the proposed processing program to integrate with existing or proposed solid waste management activities.
- (b) Financial support for implementation and operation of the proposed processing program from sources other than loans and grants from the board.
- (c) The degree to which the technical approach of the proposal makes the loan and grant program financially self-sufficient.
- (d) The degree to which the program can be measured or evaluated for success.
- (e) The probability that the processing program can be implemented and operated with the funds applied for and the amount of funds sought.
- (f) The time that the land or property on which the proposed processing facility is available to the applicant. No proposal shall be considered for a loan or grant unless the property or facility is available for at least five years.
- (g) The business plan for operation of the facility.

#### Article 4. Administration

- § 42880. Administration of chapter.
- § 42881. Adoption of rules and regulations; preparation of printed materials.
- § 42882. Contracting with other state agencies; Fee Collection Procedures Law.
- § 42883. Grant recipient reporting requirements.
- § 42884. Annual tire recycling reports. [Repealed.]

**42880. Administration of chapter.** The board shall administer this chapter. For organizational purposes, the board may create a new division, bureau, office, or unit to administer this chapter.

**42881. Adoption of rules and regulations; preparation of printed materials.** (a) In addition to any regulations which the board is required by statute to adopt, the board may adopt any rules or regulations which the board determines may be necessary or useful to carry out this chapter or any of the board's duties or responsibilities imposed pursuant to this chapter.

(b) The board may prepare, publish, or issue printed materials which the board determines to be necessary for the dissemination of information concerning the activities of the board pursuant to this chapter.

**42882. Contracting with other state agencies; Fee Collection Procedures Law.** In carrying out this chapter, the board may solicit and use any and all expertise available in other state agencies, including, but not limited to, the State Board of Equalization, and, where an existing state agency performs functions of a similar nature to the board's functions, the board may contract with, or cooperate with that agency in carrying out this chapter. If the board contracts with the State Board of Equalization to collect the fee imposed in Section 42885, the State Board of Equalization may collect that fee pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code).

Stats. 1995, Ch. 555, in effect January 1, 1996, added "If the board . . . and (Taxation Code)." as the second sentence.

**42883. Grant recipient reporting requirements.** The recipient of a grant, subsidy, or loan pursuant to Article 3 (commencing with Section 42870) shall, on or before January 1 of each year, submit a report to the board containing information required by the board, including, but not limited to, the number of used whole tires recycled, which is necessary to measure the success of the recipient's program in reducing the number of tires disposed of in landfills or stockpiled.

**42884. Annual tire recycling reports.** [Repealed by Stats. 1996, Ch. 1038, in effect September 29, 1996.]

## Article 5. Financial Provisions

- § 42885. Disposal fee; seller reimbursement retention; California Tire Recycling Management Fund; reimbursement of board.
- § 42885.5. Goals and priorities.
- § 42886. Payment due date; penalty.
- § 42886.1. Payment due date; yearly period.
- § 42887. Limitations; deficiency determination; failure to file return.
- § 42888. Refund or credit claim; limitation period.
- § 42889. Expenditure of funds.
- § 42889.1. Expenditure plan. [Repealed.]
- § 42889.3. Use of waste tires.
- § 42889.4. Air emissions.

### *Text of section operative to December 31, 1996*

**42885. Disposal fee; seller reimbursement retention; California Tire Recycling Management Fund; reimbursement of board; inoperative date.** (a) On or after July 1, 1990, every person who leaves tires for disposal with a seller of new or used tires shall pay a disposal fee of twenty-five cents (\$0.25) per tire to the seller. The seller may retain 10 percent of the fee as reimbursement for any costs associated with the collection of the fee and shall remit the remainder to the state on a quarterly schedule for deposit in the California Tire Recycling Management Fund, which is hereby created in the State Treasury.

(b) The board, or its agent authorized pursuant to Section 42882, shall be reimbursed for its costs of collection, auditing, and refunds associated with the fund, but not to exceed 3 percent of the total annual revenue deposited in the California Tire Recycling Management Fund.

(c) This section shall become inoperative on June 30, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

*Text of section operative January 1, 1997 to December 31, 2000*

**42885. Disposal fee; seller reimbursement retention; California Tire Recycling Management Fund; reimbursement of board; inoperative date.** (a) Every person who purchases a new tire, as defined in subdivision (c), from a retail seller of new tires shall pay a fee of twenty-five cents (\$0.25) per tire to the seller. The retail seller shall collect the fee at the time of sale, may retain 10 percent of the fee as reimbursement for any costs associated with the collection of the fee, and shall remit the remainder to the state on a quarterly schedule for deposit in the California Tire Recycling Management Fund, which is hereby created in the State Treasury.

(b) The board, or its agent authorized pursuant to Section 42882, shall be reimbursed for its costs of collection, auditing, and refunds associated with the California Tire Recycling Management Fund, but not to exceed 3 percent of the total annual revenue deposited in the fund.

(c) For purposes of this section, "new tire" means a pneumatic or solid tire intended for use with on-road or off-road motor vehicles, motorized equipment, construction equipment, or farm equipment that is sold separately from the motor vehicle, motorized equipment, construction equipment, or farm equipment. "New tire" does not include retreaded or recycled tires or tires that are mounted on wheels and sold as part of a vehicle or equipment.

(d) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2001, deletes or extends that date.

*Text of section operative January 1, 2001 to December 31, 2002*

**42885. Disposal fee; seller reimbursement retention; California Tire Recycling Management Fund; Reimbursement of board.** (a) For purposes of this section, "California tire fee" means the fee imposed pursuant to this section.

(b) (1) (A) On and before December 31, 2006, every person who purchases a new tire, as defined in subdivision (g), shall pay a California tire fee of one dollar (\$1.00) per tire.

(B) On and after January 1, 2007, every person who purchases a new tire, as defined in subdivision (g), shall pay a California tire fee of seventy-five cents (\$0.75) per tire.

(2) The retail seller shall charge the retail purchaser the amount of the California tire fee as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the retail purchaser.

(3) The retail seller shall collect the California tire fee from the retail purchaser at the time of sale and may retain 3 percent of the fee as reimbursement for any costs associated with the collection of the fee. The retail seller shall remit the remainder to the state on a quarterly schedule for deposit in the California Tire Recycling Management Fund, which is hereby created in the State Treasury.

(c) The board, or its agent authorized pursuant to Section 42882, shall be reimbursed for its costs of collection, auditing, and making refunds associated with the California Tire Recycling Management Fund, but not to exceed 3 percent of the total annual revenue deposited in the fund.

(d) The California tire fee imposed pursuant to subdivision (a) shall be separately stated by the retail seller on the invoice given to the customer at the time of sale. Any other disposal or transaction fee charged by the retail seller related to the tire purchase shall be identified separately from the California tire fee.

(e) Any person or business who knowingly, or with reckless disregard, makes any false statement or representation in any document used to comply with this section is liable for a civil penalty for each violation or, for continuing violations, for each day that the violation continues. Liability under this section may be imposed in a civil action and shall not exceed twenty-five thousand dollars (\$25,000) for each violation.

(f) In addition to the civil penalty that may be imposed pursuant to subdivision (e), the board may impose an administrative penalty in an amount not to exceed five thousand dollars (\$5,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues, on any person who intentionally or negligently violates any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter. The board shall adopt regulations that specify the amount of the administrative penalty and the procedure for imposing an administrative penalty pursuant to this subdivision.

(g) For purposes of this section, "new tire" means a pneumatic or solid tire intended for use with on-road or off-road motor vehicles, motorized equipment, construction equipment, or farm equipment that is sold separately from the motorized equipment, or a new tire sold with a new or used motor vehicle, including the spare tire, construction equipment, or farm equipment. "New tire" does not include retreaded, reused, or recycled tires.

| *Text of section operative January 1, 2003 to December 31, 2004*

**42885. Disposal fee; seller reimbursement retention; California Tire Recycling Management Fund; reimbursement of board.** (a) For purposes of this section, "California tire fee" means the fee imposed pursuant to this section.

(b) (1) (A) On and before December 31, 2006, every person who purchases a new tire, as defined in subdivision (g), shall pay a California tire fee of one dollar (\$1.00) per tire.

(B) On and after January 1, 2007, every person who purchases a new tire, as defined in subdivision (g), shall pay a California tire fee of seventy-five cents (\$0.75) per tire.

(2) The retail seller shall charge the retail purchaser the amount of the California tire fee as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the retail purchaser.

(3) The retail seller shall collect the California tire fee from the retail purchaser at the time of sale and may retain 3 percent of the fee as reimbursement for any costs associated with the collection of the fee. The retail seller shall remit the remainder to the state on a quarterly schedule for deposit in the California Tire Recycling Management Fund, which is hereby created in the State Treasury.

(c) The board, or its agent authorized pursuant to Section 42882, shall be reimbursed for its costs of collection, auditing, and making refunds associated with the California Tire Recycling Management Fund, but not to exceed 3 percent of the total annual revenue deposited in the fund.

(d) The California tire fee imposed pursuant to subdivision (a) shall be separately stated by the retail seller on the invoice given to the customer at the time of sale. Any other disposal or transaction fee charged by the retail seller related to the tire purchase shall be identified separately from the California tire fee.

(e) Any person or business who knowingly, or with reckless disregard, makes any false statement or representation in any document used to comply with this section is liable for a civil penalty for each violation or, for continuing violations, for each day that the violation continues. Liability under this section may be imposed in a civil action and shall not exceed twenty-five thousand dollars (\$25,000) for each violation.

(f) In addition to the civil penalty that may be imposed pursuant to subdivision (e), the board may impose an administrative penalty in an amount not to exceed five thousand dollars (\$5,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues, on any person who intentionally or negligently violates any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter. The board shall adopt regulations that specify the amount of the administrative penalty and the procedure for imposing an administrative penalty pursuant to this subdivision.

(g) For purposes of this section, "new tire" means a pneumatic or solid tire intended for use with on-road or off-road motor vehicles, motorized equipment, construction equipment, or farm equipment that is sold separately from the motorized equipment, or a new tire sold with a new or used motor

vehicle, as defined in Section 42803.5, including the spare tire, construction equipment, or farm equipment. "New tire" does not include retreaded, reused, or recycled tires.

(h) The California tire fee may not be imposed on any tire sold with, or sold separately for use on, any of the following:

(1) Any self-propelled wheelchair.

(2) Any motorized tricycle or motorized quadricycle, as defined in Section 407 of the Vehicle Code.

(3) Any vehicle that is similar to a motorized tricycle or motorized quadricycle and is designed to be operated by a person who, by reason of the person's physical disability, is otherwise unable to move about as a pedestrian.

***Text of section operative January 1, 2005 to December 31, 2014***

**42885. Disposal fee; seller reimbursement retention; California Tire Recycling Management Fund; reimbursement of board.** (a) For purposes of this section, "California tire fee" means the fee imposed pursuant to this section.

(b) (1) (A) Every person who purchases a new tire, as defined in subdivision (g), shall pay a California tire fee of one dollar (\$1.00) per tire.

(B) On or after January 1, 2005, every person who purchases a new tire, as defined in subdivision (g), shall pay a California tire fee of one dollar and seventy-five cents (\$1.75) per tire.

(C) On and after January 1, 2007, every person who purchases a new tire, as defined in subdivision (g), shall pay a California tire fee of one dollar and fifty cents (\$1.50) per tire.

(2) The retail seller shall charge the retail purchaser the amount of the California tire fee as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the retail purchaser.

(3) The retail seller shall collect the California tire fee from the retail purchaser at the time of sale and may retain 1½ percent of the fee as reimbursement for any costs associated with the collection of the fee. The retail seller shall remit the remainder to the state on a quarterly schedule for deposit in the California Tire Recycling Management Fund, which is hereby created in the State Treasury.

(c) The board, or its agent authorized pursuant to Section 42882, shall be reimbursed for its costs of collection, auditing, and making refunds associated with the California Tire Recycling Management Fund, but not to exceed 3 percent of the total annual revenue deposited in the fund.

(d) The California tire fee imposed pursuant to subdivision (a) shall be separately stated by the retail seller on the invoice given to the customer at the time of sale. Any other disposal or transaction fee charged by the retail seller related to the tire purchase shall be identified separately from the California tire fee.

(e) Any person or business who knowingly, or with reckless disregard, makes any false statement or representation in any document used to comply with this section is liable for a civil penalty for each violation or, for continuing violations, for each day that the violation continues. Liability under this section may be imposed in a civil action and shall not exceed twenty-five thousand dollars (\$25,000) for each violation.

(f) In addition to the civil penalty that may be imposed pursuant to subdivision (e), the board may impose an administrative penalty in an amount not to exceed five thousand dollars (\$5,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues, on any person who intentionally or negligently violates any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter. The board shall adopt regulations that specify the amount of the administrative penalty and the procedure for imposing an administrative penalty pursuant to this subdivision.

(g) For purposes of this section, "new tire" means a pneumatic or solid tire intended for use with on-road or off-road motor vehicles, motorized equipment, construction equipment, or farm equipment that is sold separately from the motorized equipment, or a new tire sold with a new or used motor vehicle, as defined in Section 42803.5, including the spare tire, construction equipment, or farm equipment. "New tire" does not include retreaded, reused, or recycled tires.

(h) The California tire fee may not be imposed on any tire sold with, or sold separately for use on, any of the following:

- (1) Any self-propelled wheelchair.
- (2) Any motorized tricycle or motorized quadricycle, as defined in Section 407 of the Vehicle Code.
- (3) Any vehicle that is similar to a motorized tricycle or motorized quadricycle and is designed to be operated by a person who, by reason of the person's physical disability, is otherwise unable to move about as a pedestrian.

(i) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

### ***Text of section operative January 1, 2015***

**42885. Disposal fee; seller reimbursement retention; California Tire Recycling Management Fund; reimbursement of board.** (a) For purposes of this section, "California tire fee" means the fee imposed pursuant to this section.

(b) (1) Every person who purchases a new tire, as defined in subdivision (g), shall pay a California tire fee of seventy-five cents (\$0.75) per tire.

(2) The retail seller shall charge the retail purchaser the amount of the California tire fee as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the retail purchaser.



(3) The retail seller shall collect the California tire fee from the retail purchaser at the time of sale and may retain 3 percent of the fee as reimbursement for any costs associated with the collection of the fee. The retail seller shall remit the remainder to the state on a quarterly schedule for deposit in the California Tire Recycling Management Fund, which is hereby created in the State Treasury.

(c) The board, or its agent authorized pursuant to Section 42882, shall be reimbursed for its costs of collection, auditing, and making refunds associated with the California Tire Recycling Management Fund, but not to exceed 3 percent of the total annual revenue deposited in the fund.

(d) The California tire fee imposed pursuant to subdivision (a) shall be separately stated by the retail seller on the invoice given to the customer at the time of sale. Any other disposal or transaction fee charged by the retail seller related to the tire purchase shall be identified separately from the California tire fee.

(e) Any person or business who knowingly, or with reckless disregard, makes any false statement or representation in any document used to comply with this section is liable for a civil penalty for each violation or, for continuing violations, for each day that the violation continues. Liability under this section may be imposed in a civil action and shall not exceed twenty-five thousand dollars (\$25,000) for each violation.

(f) In addition to the civil penalty that may be imposed pursuant to subdivision (e), the board may impose an administrative penalty in an amount not to exceed five thousand dollars (\$5,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues, on any person who intentionally or negligently violates any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter. The board shall adopt regulations that specify the amount of the administrative penalty and the procedure for imposing an administrative penalty pursuant to this subdivision.

(g) For purposes of this section, "new tire" means a pneumatic or solid tire intended for use with on-road or off-road motor vehicles, motorized equipment, construction equipment, or farm equipment that is sold separately from the motorized equipment, or a new tire sold with a new or used motor vehicle, as defined in Section 42803.5, including the spare tire, construction equipment, or farm equipment. "New tire" does not include retreaded, reused, or recycled tires.

(h) The California tire fee may not be imposed on any tire sold with, or sold separately for use on, any of the following:

(1) Any self-propelled wheelchair.

(2) Any motorized tricycle or motorized quadricycle, as defined in Section 407 of the Vehicle Code.



(3) Any vehicle that is similar to a motorized tricycle or motorized quadricycle and is designed to be operated by a person who, by reason of the person's physical disability, is otherwise unable to move about as a pedestrian.

(i) This section shall become operative on January 1, 2015.

42885.5. **Goals and priorities.** (a) The board shall adopt a five-year plan, which shall be updated every two years, to establish goals and priorities for the waste tire program and each program element.

(b) On or before July 1, 2001, and every two years thereafter, the board shall submit the adopted five-year plan to the appropriate policy and fiscal committees of the Legislature. The board shall include, in the plan, programmatic and fiscal issues including, but not limited to, the hierarchy used by the board to maximize productive uses of waste and used tires and the performance objectives and measurement criteria used by the board to evaluate the success of its waste and used tire recycling program. Additionally, the plan shall describe each program element's effectiveness, based upon performance measures developed by the board, including, but not limited to, the following:

(1) Enforcement and regulations relating to the storage of waste and used tires.

(2) Cleanup, abatement, or other remedial action related to waste tire stockpiles throughout the state.

(3) Research directed at promoting and developing alternatives to the landfill disposal of waste tires.

(4) Market development and new technology activities for used tires and waste tires.

(5) The waste and used tire hauler program and manifest system.

(6) A description of the grants, loans, contracts, and other expenditures proposed to be made by the board under the tire recycling program.

(7) Until June 30, 2006, the grant program authorized under Section 42872.5 to encourage the use of rubberized asphalt concrete technology in public works projects.

(c) The board shall base the budget for the California Tire Recycling Act and program funding on the plan.

(d) The plan may not propose financial or other support that promotes, or provides for research for the incineration of tires.

42886. **Payment due date; penalty.** The fees remitted pursuant to Section 42885 are due and payable quarterly on or before the 15th day of the month following each calendar quarter.

42886.1. **Payment due date; yearly period.** (a) The State Board of Equalization if it deems it necessary in order to ensure payment to or facilitate the collection by the state of the amount of fees, may require returns and payment of the amount of fees for a yearly period.

(b) On or before the 15th day of the month following each designated yearly period, a return for the preceding designated yearly period shall be filed with the State Board of Equalization in the form as the State Board of Equalization may prescribe.

**42887. Limitations; deficiency determination; failure to file return.** Except in the case of fraud, intent to evade this chapter or rules and regulations adopted to implement this chapter, or failure to file a return, the notice of a deficiency determination shall be mailed within three years after the amount that is proposed to be determined was due or within three years after the return is filed, whichever period expires later. In the case of failure to file a return, the notice of determination shall be mailed within eight years after the amount that is proposed to be determined was due.

**42888. Refund or credit claim; limitation period.** (a) Except as agreed to by the board, no refund shall be approved by the board after three years from the date the payment was due for which the overpayment was made, or with respect to deficiency or jeopardy determinations, after six months from the date the determinations become final, or after six months from the date of overpayment, whichever period expires later, unless a claim therefor is filed with the board within that period. No credit shall be approved by the board after the expiration of that period, unless a claim for credit is filed with the board within that period or unless the credit relates to a period for which a waiver is given by the board.

(2) A refund may be approved by the board for any period agreed to by the board for good cause if a claim therefor is filed with the board before the expiration of the period agreed upon.

*Text of section operative January 1, 2005 to December 31, 2014*

**42889. Expenditure of funds.** (a) (1) Commencing January 1, 2005, and until December 31, 2006, of the moneys collected pursuant to Section 42885, an amount equal to seventy-five cents (\$0.75) per tire on which the fee is imposed shall be transferred by the State Board of Equalization to the Air Pollution Control Fund. The state board shall expend those moneys, or allocate those moneys to the districts for expenditure, to fund programs and projects that mitigate or remediate air pollution caused by tires in the state, to the extent that the state board or the applicable district determines that the program or project remediates air pollution harms created by tires upon which the fee described in Section 42885 is imposed.

(2) Commencing January 1, 2007, of the moneys collected pursuant to Section 42885, an amount equal to fifty cents (\$0.50) per tire on which the fee is imposed shall be transferred by the State Board of Equalization to the Air Pollution Control Fund for expenditure by the state board as described in paragraph (1).

(b) The remaining moneys collected pursuant to Section 42885 shall be used to fund the waste tire program, and shall be appropriated to the board in

the annual Budget Act in a manner consistent with the five-year plan adopted and updated by the board. These moneys shall be expended for the payment of refunds under this chapter and for the following purposes:

(1) To pay the administrative overhead cost of this chapter, not to exceed 6 percent of the total revenue deposited in the fund annually, or an amount otherwise specified in the annual Budget Act.

(2) To pay the costs of administration associated with collection, making refunds, and auditing revenues in the fund, not to exceed 3 percent of the total revenue deposited in the fund, as provided in subdivision (b) of Section 42885.

(3) To pay the costs associated with operating the tire recycling program specified in Article 3 (commencing with Section 42870).

(4) To pay the costs associated with the development and enforcement of regulations relating to the storage of waste tires and used tires. The board shall consider designating a city, county, or city and county as the enforcement authority of regulations relating to the storage of waste tires and used tires, as provided in subdivision (c) of Section 42850. If the board designates a local entity for that purpose, the board shall provide sufficient, stable, and noncompetitive funding to that entity for that purpose, based on available resources, as provided in the five-year plan adopted and updated as provided in subdivision (a) of Section 42855.5. The board may consider and create, as appropriate, financial incentives for citizens who report the illegal hauling or disposal of waste tires as a means of enhancing local and statewide waste tire and used tire enforcement programs.

(5) To pay the costs of cleanup, abatement, removal, or other remedial action related to waste tire stockpiles throughout the state, including all approved costs incurred by other public agencies involved in these activities by contract with the board. Not less than six million five hundred thousand dollars (\$6,500,000) shall be expended by the board during each of the following fiscal years for this purpose: 2001-02 to 2006-07, inclusive.

(6) To make studies and conduct research directed at promoting and developing alternatives to the landfill disposal of waste tires.

(7) To assist in developing markets and new technologies for used tires and waste tires. The board's expenditure of funds for purposes of this subdivision shall reflect the priorities for waste management practices specified in subdivision (a) of Section 40051.

(8) To pay the costs associated with implementing and operating a waste tire and used tire hauler program and manifest system pursuant to Chapter 19 (commencing with Section 42950).

(9) To pay the costs to create and maintain an emergency reserve, which shall not exceed one million dollars (\$1,000,000).

(10) To pay the costs of cleanup, abatement, or other remedial action related to the disposal of waste tires in implementing and operating the Farm and Ranch Solid Waste Cleanup and Abatement Grant Program established pursuant to Chapter 2.5 (commencing with Section 48100) of Part 7.

(c) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

*Text of section operative January 1, 2015*

42889. **Expenditure of funds.** Funding for the waste tire program shall be appropriated to the board in the annual Budget Act. The moneys in the fund shall be expended for the payment of refunds under this chapter and for the following purposes:

(a) To pay the administrative overhead cost of this chapter, not to exceed 5 percent of the total revenue deposited in the fund annually, or an amount otherwise specified in the annual Budget Act.

(b) To pay the costs of administration associated with collection, making refunds, and auditing revenues in the fund, not to exceed 3 percent of the total revenue deposited in the fund, as provided in subdivision (b) of Section 42885.

(c) To pay the costs associated with operating the tire recycling program specified in Article 3 (commencing with Section 42870).

(d) To pay the costs associated with the development and enforcement of regulations relating to the storage of waste tires and used tires. The board shall consider designating a city, county, or city and county as the enforcement authority of regulations relating to the storage of waste tires and used tires, as provided in subdivision (c) of Section 42850. If the board designates a local entity for that purpose, the board shall provide sufficient, stable, and noncompetitive funding to that entity for that purpose, based on available resources, as provided in the five-year plan adopted and updated as provided in subdivision (a) of Section 42855.5. The board may consider and create, as appropriate, financial incentives for citizens who report the illegal hauling or disposal of waste tires as a means of enhancing local and statewide waste tire and used tire enforcement programs.

(e) To pay the costs of cleanup, abatement, removal, or other remedial action related to waste tire stockpiles throughout the state, including all approved costs incurred by other public agencies involved in these activities by contract with the board. Not less than six million five hundred thousand dollars (\$6,500,000) shall be expended by the board during each of the following fiscal years for this purpose: 2001-02 to 2006-07, inclusive.

This section shall become operative on January 1, 2015.

42889.1. **Expenditure plan.** [Repealed by Stats. 2004, Ch. 644 (AB 2701), effective January 1, 2005.]

42889.3. **Use of waste tires.** On or before January 1 of each year, the Department of Transportation shall report to the Legislature and the board on the use of waste tires in transportation and civil engineering projects during the previous five years, including, but not limited to, the approximate number of waste tires used every year, and the types and location of these projects.

42889.4. **Air emissions.** If facilities are permitted to burn tires in the previous calendar year, the State Air Resources Board, in conjunction with air pollution control districts and air quality management districts, shall post on its Web site, updated on or before July 1 of the subsequent year, information summarizing the types and quantities of air emissions, if any, from those facilities.

Article 6. Use of Recycled Tire Products by State Agencies

- § 42890. “Recycled tire product.”
- § 42891. Revision of state procedures and procurement specifications.
- § 42892. Bid preference.
- § 42893. Limit on preference grants.
- § 42894. Preference for highest percentage of recycled tire products.
- § 42895. Adoption of rules and regulations for bid preference.

42890. **“Recycled tire product.”** “Recycled tire product” means a product with not less than 50 percent of its total content derived from recycled used tires.

42891. **Revision of state procedures and procurement specifications.** (a) The Department of General Services shall revise its procedures and procurement specifications for state purchases of products which are made of, or contain components which can be derived from the recycling of, used tires, including, but not limited to, rubber, oil, natural gas, carbon black, asphalt rubber, floor tiles, carpet underlays, mats, drainage pipes, garbage cans, retreaded tires, and water hoses. For those purchases, the department shall give preference, wherever feasible, to the suppliers of recycled tire products. This preference shall be 5 percent of the lowest bid or price quoted by suppliers offering similar products made from nonrecycled components.

42892. **Bid preference.** In bids in which the state has reserved the right to make multiple awards, the recycled tire product preference cost shall be applied, to the extent possible, so as to maximize the dollar participation of recycled tire product businesses in the contract award.

42893. **Limit on preference grants.** (a) The combined amount of preference granted pursuant to this section shall not exceed one hundred thousand dollars (\$100,000) each year.

(b) Notwithstanding Section 42892, the recycled tire product preference shall not exceed fifty thousand dollars (\$50,000) if a preference exceeding that amount would preclude an award to a small business that offers a similar product made of nonrecycled tire components and is qualified in accordance with Section 14838 of the Government Code. This provision applies regardless of whether the small business is the lowest responsible bidder or is eligible for the contract award on the basis of application of the 5 percent small business preference.

42894. **Preference for highest percentage of recycled tire products.** To encourage the use of recycled tires, the department's specifications shall require recycled tire product contracts to be awarded to the bidder whose product has the greatest percentage of recycled tire content if the fitness, quality, and price are otherwise equal.

42895. **Adoption of rules and regulations for bid preference.** The department may adopt rules and regulations to carry out this article.

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